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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------|------------------|
| 09/324,741 | 06/03/1999 | ROBERT S. DELAND | 9127-1E006US | 1968 |
| 23363 | 7590 | 10/01/2003 | | |
| CHRISTIE, PARKER & HALE, LLP 350 WEST COLORADO BOULEVARD SUITE 500 PASADENA, CA 91105 | | | EXAMINER | |
| | | | TREMBLAY, MARK STEPHEN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2827 | |

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/324,741 | DELAND, ROBERT S. | |
| | Examiner | Art Unit | |
| | Mark Tremblay | 2876 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 June 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>0916</u> . | 6) <input type="checkbox"/> Other: _____ |

Applicant: Deland

Filing date: 6/3/1999

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness
5 rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent #5,546,462 to Indeck ("Indeck" hereinafter) in view of U.S. Patent #6,053,406 to Litman ("Litman" hereinafter), further in view of U.S. Patent #5,616,904 to Fernandez ("Fernandez" hereinafter). Indeck discloses an identification system for identifying authentic documents bearing a magnetic stripe 102 recorded with digital data and having a repeatable magnetic characteristic, comprising:

a magnetic stripe sensor 100 configured to sense the magnetic stripe to provide an analog signal representative of the recorded digital data and the repeatable magnetic characteristic;

20 a digitizer (see column 5, lines 42-44) configured to sample a portion of the analog signal to provide digitized samples indicative of the repeatable magnetic characteristic;

a storage (see column 5, lines 42-44 and column 10, lines 54-68) configured to store the representations of the digitized samples and the range data as identification data to identify the document; and

25 a processor 114 configured to determine whether the digital data recorded on the magnetic stripe has been copied from the authentic document using the digitized samples of the repeatable magnetic characteristic.

Indeck does not clearly teach that the processor is also configured to determine whether the repeatable magnetic characteristic has been copied from the authentic document using the range data. Litman teaches that a verification of a magnetic material using a characteristic signal can be digitally copied, producing an identical reading. See especially column 5, lines 30-61, for a

summary of the fuller disclosure in the detailed description. Litman teaches therefore that the match between the stored sample of the characteristic signal must be close, but not match exactly, because the latter indicates digital copying of the authentic document. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to provide the authentication system of Indeck with a secondary check for digital copying which would determine whether the repeatable magnetic characteristic has been copied from the authentic document using the data which specifies the range (range data) to determine of exactness of match which would indicate a digital copy of the characteristic data, because Litman teaches that such an exact match, indicating a digital copy of the data, suggests fraud.

Indeck suggests that ranges are acceptable because of inaccuracy in measurements of the magnetic fingerprint, and noise in the head and electronics. Litman teaches that a check for speed variations in the playback of the characteristic signal could be used as a check for digital copying. The term "variations" means essentially the same as Applicant's term "ranges". Litman even suggests that a "chatter, stutter" or other disuniformity could be imposed in the reading equipment to be sure that the patterns read from the machine are different. This "chatter or stutter", when read in context of the intended speed variations they are intended to produce, clearly suggest the "jitter" taught by Fernandez. However, the combined teachings do not clearly disclose a waveform circuit for providing range data characteristic of the analog signal coupled with a storage to store the range data. Fernandez teaches a waveform circuit for providing range data characteristic of the analog signal and a storage to store the range data. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the technique of Indeck as modified by Litman for determining the magnetic fingerprint based on the noise remnant of the permanent magnetic microstructure on the card with the technique of Fernandez for measuring the "jitter" of the magnetic analog signal in terms of ranges using a range circuit, and storing both in a storage as a means of authenticating the data, because neither Litman nor Indeck teaches a circuit to perform the suggested function, and Fernandez provides a clear teaching of the circuit to perform the function.

Re claim 2 and 8, Indeck appears to apply anywhere. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to apply the combined

techniques to a series of leading zeros, because the techniques are applicable to all numbers, and documents with a series of leading zeros are notoriously old and well known in the art. Leading zeros are a common fill technique, when the number is low but a set number of digits must be recorded.

5 Re claim 4, it is clear from both references that there is data used to fetch identification data from the storage.

Re claims 9-10, 14-15 see Fernandez.

Response to Arguments

10 Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

15 The indicated allowability of claims 7 and 19-23 is withdrawn in view of the newly discovered reference(s) to Litman.

Voice

20 Inquiries for the Examiner should be directed to Mark Tremblay at (703) 305-5176. The Examiner's regular office hours are 10:30 am to 7:00 pm EST Monday to Friday. Voice mail is available. If Applicant has trouble contacting the Examiner, the Supervisory Patent Examiner, Michael Lee, can be reached on (703) 305-3503. Technical questions and comments concerning PTO procedures may be directed to the Patent Assistance Center hotline at 1-800-786-9199 or (703) 308-4357.

Fax Procedures

25 Application papers may faxed to Art Unit 2876 at (703)872-9306. Faxes must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Papers solely for the examiner's consideration, and not intended for immediate entry into the application (e.g., a proposed amendment) should be unsigned and clearly marked "Draft Copy" and faxed to (703) 746-5577.

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MARK TREMBLAY
PRIMARY EXAMINER

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September 16, 2003